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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,593	09/25/2001	Jordan Du Val	M-11052 US	3559

32566 7590 08/25/2005

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EXAMINER

TODD, GREGORY G

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/965,593

Applicant(s)

DU VAL ET AL.

Examiner

Gregory G. Todd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is a second office action in response to applicant's amendment filed, 10 June 2005, of application filed, with the above serial number, on 25 September 2001 in which claims 13-15 have been amended and claims 33-34 have been cancelled. Claims 1-32 are therefore pending in the application.

### ***Specification***

2. The most recent information regarding patent and/or application numbers from related applications should be entered directly into the "cross-reference to related application" portion of the specification.

### ***Information Disclosure Statement***

3. The information disclosure statement filed 10 June 2005 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

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Applicant is advised to send an IDS to include Wu, Matsuura, Voyticky, and Al Macre, as well as other examples Applicant would like the examiner to consider, and also information from [www.atvef.com](http://www.atvef.com) Applicant considers to be relevant for the examiner.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 4-7, 9-10, 12-19, and 23-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Purnaveja et al (hereinafter "Purnaveja", 6,230,172).

As per Claim 1, Purnaveja teaches a computer-implemented method for distributing interactive data to a plurality of users over a computer network, the method comprising:

processing a series of the interactive data, the interactive data being synchronized with a performance of audio-visual content (at least col. 5, lines 20-50; annotation streams accompanying video/audio stream); and

distributing the interactive data to the plurality of users over the computer network, wherein the distributing is synchronized with the contemporaneous

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performance of the audio-visual content (at least col. 5, lines 20-50; synchronously displaying video stream and event stream).

As per Claim 2. The method of claim 1, wherein the audio-visual content includes audio-only content, visual-only content, and combined audio and visual content (at least col. 5, 20-38; col. 6, lines 23-30; video and audio).

As per Claim 4. The method of claim 1, wherein the interactive data includes an interactive event (at least col. 5, lines 38-49; col. 6, lines 40-60; html text).

As per Claim 5. The method of claim 1, wherein the interactive data includes a link to a remote computer resource (at least col. 5, lines 38-49; col. 6, lines 40-60; URL).

As per Claim 6. The method of claim 5, wherein the link includes a URL (at least col. 5, lines 38-49; col. 6, lines 40-60; URL).

As per Claim 7. The method of claim 5, wherein the link includes a label describing the remote computer resource (at least col. 5, lines 38-49; col. 6, lines 40-60; html text).

As per Claim 9. The method of claim 4, further comprising: recording the interactive events in a computer storage medium (at least col. 6, lines 45-60).

As per Claim 10. The method of claim 1, further comprising: uploading the series into at least one Web server (at least Fig. 9; stream server).

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As per Claim 12. The method of claim 4, wherein each interactive event is marked with a timestamp at the moment of the extracting (at least col. 9, lines 40-54; col. 7, lines 15-23; timeline).

As per Claim 13. The method of claim 12, further comprising: receiving a plurality of event update requests from the plurality of client computers over the computer network; and performing the distributing for a particular client computer in response to receiving an update request from the particular client computer (at least col. 10, lines 4-28; viewer controlling time of streams and server updating upon user interaction).

As per Claim 14. The method of claim 13, further comprising: wherein the event update request received from the particular client computer includes information identifying the most current interactive event received by the particular client computer; determining whether any of the interactive events in the uploaded series is more current than the interactive event identified in the event update request; and if a more current interactive event in the uploaded series is identified, distributing the identified interactive event to the particular client computer (at least col. 10, lines 4-28; resetting annotation and video streams to selected point in time).

As per Claim 15. The method of claim 14, further comprising: if more than one interactive event in the uploaded series is determined to be more current than the interactive event identified in the event update request, distributing the next most current interactive event in the uploaded series to the particular client computer (at least col. 10, lines 4-28; resetting annotation and video streams to selected point in time).

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As per Claim 16. The method of claim 4, further comprising: receiving a selection of one of the distributed interactive events from a particular client computer, wherein the selection identifies information retrievable from a server computer connected to the computer network (at least col. 8, lines 11-30; web page from server).

As per Claim 17. The method of claim 16, further comprising: storing a record of the selection in a computer storage medium (at least col. 6, lines 45-60).

As per Claim 18. The method of claim 16, further comprising: receiving the selection as an HTTP command sent by a Web browser executing in the particular client computer (at least col. 8, lines 54-67).

As per Claim 19. The method of claim 16, further comprising: sending a request for the information identified by the selection to the server computer identified by the selection, wherein the request includes an instruction directing the server computer to send the linked information to the particular client computer (at least col. 8, lines 54-67; client "pulling" page).

As per Claim 23. The method of claim 1, further comprising: generating the series via execution of a computer program (at least col. 5, lines 38-49; producing).

As per Claim 24. The method of claim 23, wherein the computer program is a scripting program (at least col. 5, lines 38-49).

As per Claim 25. The method of claim 1, further comprising: generating at least one interactive event; and distributing the event to at least one of the plurality of users,

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wherein the event is inserted within the series of interactive television events (at least col. 5, lines 38-49; col. 6, lines 40-60; annotation streams).

As per Claim 26. The method of claim 25, wherein the generating includes executing a scripting program (at least col. 5, lines 38-49).

As per Claim 27. The method of claim 25, further comprising: receiving a selection of the generated event from a particular client computer, wherein the selected generated event identifies information retrievable from a server computer connected to the computer network (at least col. 8, lines 11-30; web page from server).

As per Claim 28. The method of claim 27, storing a record of the selection in a database (at least Fig. 9; col. 6, lines 45-60).

As per Claim 29. The method of claim 27, wherein the selection is received as an HTTP command sent by a Web browser executing in the particular client computer (at least col. 8, lines 54-67).

As per Claim 30. The method of claim 27, further comprising: sending a request for the information identified by the selection to the server computer identified by the selection, wherein the request includes an instruction directing the server computer to send the linked information to the particular client computer (at least col. 8, lines 54-67; client "pulling" page).



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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 8, 11, 20-22, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Purnaveja in view of Weinstein et al (hereinafter "Weinstein", 6,604,242).

As per Claim 3, Purnaveja teaches the method of claim 1, but fails to explicitly teach wherein the audio-visual content is received via a broadcast signal. However, the use and advantages for using broadcast signals is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Weinstein (at least Weinstein col. 5, lines 1-10; col. 8, lines 29-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Weinstein's broadcast signals into Purnaveja's system as Purnaveja teaches the sources for the video being a video camera or digitized video file (see col. 5, lines 50-60) and it is well known for television broadcast signals to originate from video cameras and Weinstein teaches a similar system with broadcast information being streamed along with video content.

As per Claim 8, Purnaveja teaches the method of claim 1, but fails to explicitly teach wherein the interactive data includes information identifying a broadcast signal by carrier. However, the use and advantages for using broadcast signals is well known to

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one skilled in the art at the time the invention was made as evidenced by the teachings of Weinstein (at least Weinstein col. 5, lines 1-10, 19-26; col. 8, lines 29-48; television channel). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Weinstein's broadcast signals into Purnaveja's system as Purnaveja teaches the sources for the video being a video camera or digitized video file (see col. 5, lines 50-60) and it is well known for television broadcast signals to originate from video cameras and Weinstein teaches a similar system with broadcast information being streamed along with video content.

As per Claim 11, Purnaveja teaches the method of claim 1, but fails to explicitly teach further comprising: extracting the series from a broadcast transmission. However, the use and advantages for using broadcast signals is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Weinstein (at least Weinstein col. 5, lines 1-10, 19-26; col. 8, lines 29-48; tuning to television channel). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Weinstein's broadcast signals into Purnaveja's system as Purnaveja teaches the sources for the video being a video camera or digitized video file (see col. 5, lines 50-60) and it is well known for television broadcast signals to originate from video cameras and Weinstein teaches a similar system with broadcast information being streamed along with video content.

As per Claim 20. The method of claim 1, further comprising: receiving multiple series of interactive events over the computer network; and distributing each series to a portion of the plurality of users over the computer network, wherein the distributing for each

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series is synchronized with the corresponding live broadcast signal originating the respective series (at least col. 5, lines 20-50; synchronously displaying video stream and event stream).

Purnaveja fails to explicitly teach wherein each series is embedded in a different live broadcast signal. However, the use and advantages for using broadcast signals is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Weinstein (at least Weinstein col. 5, lines 1-10, 19-26; col. 8, lines 29-48; tuning to television channel). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Weinstein's broadcast signals into Purnaveja's system as Purnaveja teaches the sources for the video being a video camera or digitized video file (see col. 5, lines 50-60) and it is well known for television broadcast signals to originate from video cameras and Weinstein teaches a similar system with broadcast information being streamed along with video content.

As per Claim 21. The method of claim 20, further comprising: determining which portion of the plurality of users to distribute a particular series based on a request received from each of the plurality of users, wherein each request identifies the particular series to be distributed to the requesting user (at least col. 8, lines 1-30; target web page for client).

As per Claim 22. The method of claim 20, further comprising: uploading each series of interactive events into a plurality of Web servers within a Web server cluster (at least Fig. 9).

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As per Claim 31, Purnaveja teaches a computer system for distributing a series of interactive television events to a plurality of users over a computer network, the method comprising:

a first computer connected to the computer network (at least col. 5, lines 20-50; Fig. 3; producer/designer computer);

a first computer program executing in the first computer, the first computer program including computer instructions for: receiving the series of interactive events over the computer network (at least col. 5, lines 20-50; Fig. 3, 9; producer computer from designer); and

sending the series to at least one second computer (at least col. 5, lines 20-50; streaming server);

the second computer connected to the first computer and to at least one client computer via the computer network (at least col. 5, lines 20-50; synchronously displaying video stream and event stream);

a second computer program executing in the second computer, the second computer program including computer instructions for: receiving the series of interactive events from the first computer (at least col. 5, lines 20-50; streams to be sent to client); and

sending the series to the client computer in response to a request received from the client computer (at least col. 5, lines 20-50; col. 8, lines 1-20; synchronously displaying video stream and event stream).

Purnaveja fails to explicitly teach wherein the series is embedded in a live broadcast signal. However, the use and advantages for using broadcast signals is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Weinstein (at least Weinstein col. 5, lines 1-10, 19-26; col. 8, lines 29-48; tuning to television channel). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Weinstein's broadcast signals into Purnaveja's system as Purnaveja teaches the sources for the video being a video camera or digitized video file (see col. 5, lines 50-60) and it is well known for television broadcast signals to originate from video cameras and Weinstein teaches a similar system with broadcast information being streamed along with video content.

As per Claim 32. The computer system of claim 31, further comprising: a third computer connected to the first computer; and a third computer program executing in the third computer, the computer program including computer instructions for: extracting a series of interactive events; and sending the series to the first computer (at least col. 5, lines 20-50; Fig. 3, 9; designer computer).

### ***Response to Arguments***

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8. Applicant's arguments filed 10 June 2005 have been fully considered but they are not persuasive.

9. Applicant argues, substantially, that Purnaveja is dissimilar to the invention and not identical to traditional broadcast media, and further is incompatible and very different with the methods employed.

In response to applicant's argument that Purnaveja is not drawn toward traditional broadcast media, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wherein the audio-visual content is received via a broadcast signal; using ATVEF standards) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Although these limitations are in subsequent dependent claims, Purnaveja is not relied on for teaching these limitations, in fact Weinstein is relied on for teaching these limitations.

While Applicant points to the claims of Purnaveja for showing Purnaveja to be different and incompatible, the claims of Purnaveja are not relied on for teaching the claims of Duval. In fact, the claims are the most narrow and specific ideas of the entire specification of Purnaveja, however, the detailed description of the Purnaveja invention teaches a broader view of what Purnaveja is capable of doing. Thus, the broad independent claim language of Duval is taught by Purnaveja.

10. Applicant further argues Weinstein is dissimilar and does not teach any method for linking interactive content to a plurality of broadcast channels via any scalable method for distributing interactive link information; and, further, Weinstein does not teach features from claim 1.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., linking interactive content to a plurality of broadcast channels via any scalable method for distributing interactive link information) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Weinstein is not relied on, in combination with Purnaveja, or alone, as teaching

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the features of claim 1. Thus, these arguments are moot, as Purnaveja teaches all of the features of claim 1, and other independent claims.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Weinstein teaches interactive broadcast television coming from the web as multiple streams (at least Weinstein col. 5, lines 1-10, 19-26; col. 8, lines 29-48; tuning to television channel) and Purnaveja teaches the sources for the video being a video camera or digitized video file (see col. 5, lines 50-60) and it is well known for television broadcast signals to originate from video cameras and Weinstein teaches a similar system with broadcast information being streamed along with video content. While Weinstein does go into detail over the user interface, this does not detract from Weinstein's teachings of the actual information source and what to do with the information.

### **Conclusion**

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Previously cited Bookspan et al, Parasnis et al, Ullman et al, Matthews et al, Rangan et al, and Collins-Rector et al are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G. Todd whose telephone number is (571)272-4011. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd

Patent Examiner

Technology Center 2100

  
ABDULHADI SALAM  
Primary Examiner